



WEB COPY

W.P No. 14785 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2025

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 14785 of 2017

Dharampal Singh

..Petitioner

Vs

1.Union of India
rep by its Secretary to Government
Ministry of Home Affairs,
New Delhi.

2.The Director General
Central Industrial Security Force,
CGO Complex, Lodhi Road,
New Delhi-110003.

3.The Inspector General
Central Industrial Security Force,
South Sector, Head Quarters,
Chennai Port Trust Campus,
Near War Memorial, Chennai-600009.

4.The Deputy Inspector General,
Central Industrial Security Force,
South Zone, Head Quarters,
First Floor, D-Block,
Rajaji Bhavan, Besant Nagar,
Chennai-600090.

5.The Group Commandant,



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Central Industrial Security Force,
Group Head Quarters,
C2-Kendriya Bhawan,
CSEZ Post, Cochin-37.

..Respondents

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 3rd respondent dt 5.4.2017 in his Order No. V-15014 / SS / Rev / DS / 11 / L & R / 2017-3760 confirming the order passed by the 4th respondent dt 21.9.2016 in his Order No. V-11014 (1) / 42 / Anu / DPS / SZ / 2016-5787 confirming the order of the 5th respondent dt 3.3.2016 in his Order No. V-15014 / CISF / GHC / AD.V / MAJ / BPCL-DPS / 2016 / 981 and quash the same and to direct the respondents to take the petitioner into the strength of CISF as Assistant Sub Inspector / Stenographer with all monetary benefits

For Petitioner : Mr. A.S. Mujibur Rahman

For Respondents : Mr.P.G. Santhosh Kumar

ORDER

The challenge in this writ petition is to the order dated 05.04.2017 passed by the 3rd respondent, confirming the order dated 21.09.2016 passed by the 4th respondent and the order dated 03.03.2016 passed by the 5th respondent. By the said orders, the petitioner, while serving in the CISF Unit, Cochin, was removed from service.

2. The petitioner was issued a charge memo alleging that he had overstayed for a period of 137 days and that, despite issuance of three call up



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notices by the Unit Commandant directing him to rejoin duty immediately, he failed to comply with the instructions. It was alleged that such conduct amounted to gross negligence and disobedience of lawful orders issued by the competent authority.

3. The petitioner submitted an explanation to the show-cause notice denying the allegations and setting out the genuine reasons for his overstay. As the 5th respondent was not satisfied with the explanation offered by the petitioner, an Enquiry Officer was appointed. The Enquiry Officer, after recording the statements of the Presenting Officer and the petitioner and after considering the documents produced by the parties, submitted a report holding that the charges against the petitioner stood proved.

4. Thereafter, the 5th respondent issued a second show-cause notice calling upon the petitioner to explain why the Enquiry Officer's report should not be accepted and why appropriate punishment should not be imposed. The petitioner claims to have submitted a further explanation. After considering the further explanation submitted by the petitioner and perusing the Enquiry Officer's report, the 5th respondent passed the impugned order removing the petitioner from service. Aggrieved by the same, the present writ petition has been filed.



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5. Learned counsel for the petitioner submitted that the petitioner had initially applied for 19 days of Earned Leave and that, before the expiry of the said leave period, owing to the demise of his grandfather and subsequently due to his own ill health, he overstayed for a period of 137 days. It was contended that the said absence was neither intentional nor deliberate and that, since the petitioner had offered a satisfactory explanation for his absence, the impugned order passed by the respondents is not legally sustainable.

6. Learned counsel for the petitioner further submitted that a similar charge memo had earlier been issued to the petitioner and that he had submitted his explanation thereto. Therefore, the issuance of a second charge memo and the initiation of an enquiry on the basis thereof are not legally sustainable. It was further submitted that even assuming that the petitioner had overstayed for a period of 137 days, the punishment of removal from service is grossly disproportionate to the gravity of the alleged misconduct and, on this ground also, the impugned order is liable to be set aside.

7. Learned counsel for the petitioner further submitted that, in identical circumstances, a delinquent official who had remained unauthorisedly absent for 175 days was punished only with reduction of pay for a period of three years with immediate effect. Therefore, the punishment of removal from service



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imposed on the petitioner is arbitrary and discriminatory and liable to be interfered with.

8. In response, learned counsel for the respondents submitted that after the commencement of the departmental enquiry, the petitioner rejoined duty and, therefore, a fresh charge memo dated 01.01.2016 was issued by cancelling the earlier charge memo dated 15.10.2015, which is in conformity with the CISF Rules. It was further submitted that the petitioner failed to produce any satisfactory medical evidence to substantiate his claim that the overstay was for genuine reasons and not deliberate. The Enquiry Officer, after considering the evidence and records, rightly concluded that the petitioner had overstayed and disobeyed the orders of the Unit Commandant. In the absence of any perversity or illegality in the findings recorded by the Enquiry Officer, the impugned order does not warrant any interference, and the writ petition is liable to be dismissed.

9. Heard the submissions made by the learned counsel for the parties and perused the materials available on record.

10. Admittedly, a charge memo dated 15.10.2015 along with the statement of imputations was issued to the petitioner. The charge memo containing the charges reads thus:

ARTICLE OF CHARGE - I



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"That No 120400047 ASI/Steno DHARAMPAL SINGH of CISF Unit BPCL KR Cochin was granted 19 days Earned leave from 20.07.2015 to 07.08.2015 along with all eligible permissions. On expiry of the sanctioned leave he was supposed to rejoin duty on 10.08.2015 (FN), which he failed to do so and continuing overstaying leave from 10.08.2015. This act on the part of No 120400047 ASI/Steno DHARAMPAL SINGH tantamounts to gross misconduct, indiscipline and unbecoming of a member of the disciplined Force of CISF. Hence the Charge.

ARTICLE OF CHARGE - II

That No.120400047 ASI/Steno DHARAMPAL SINGH of CISF Unit BPCL KR Cochin inspite of issuing three call up notices by the Unit Commander, CISF Unit BPCL Cochin vide letter No. (2025) dated 11.08.2015, letter of even No. (564) dated 17.08-2015 and letter of even No. (614) dated 31.08.2015 with a direction to rejoin duty immediately, did not respond to the instructions issued by the Unit Commander, CISF Unit BPCL Cochin. Thus he exhibited an act of gross negligence and disobedience of lawful orders issued to him by the Competent Authority. Hence the Charge.

11. The petitioner replied to the show-cause notice dated 15.10.2015 stating that he had overstayed for a period of 137 days on account of the demise of his grandfather and his own ill health. In view of the said explanation, the earlier show-cause notice dated 15.10.2015 was withdrawn, and a fresh show-cause notice dated 01.01.2016 was issued along with the statement of articles of charges framed against the petitioner and the statement of imputations. The



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charges contained in the first and second show-cause notices are identical. The reason assigned by the respondents for cancelling the earlier show-cause notice and issuing a fresh show-cause notice was that, before initiation of the enquiry proceedings, the petitioner had resumed duty, and therefore, cancellation of the earlier charge memo and issuance of the second show-cause notice were in accordance with Rule 36 of the CISF Rules, 2001. Hence, the contention of the petitioner that issuance of the second show-cause notice by cancelling the first is impermissible is devoid of merit.

12. In response to the second show-cause notice, the petitioner submitted a reply dated 11.01.2016, stating as follows:

(i) He had applied for 19 days of Earned Leave with effect from 20.07.2015 to visit his parents, which was granted, and he was required to report for duty on 10.08.2015.

(ii) He informed the Deputy Commandant, CISF Unit, BPCL–KR, Cochin, through email that his grandfather had expired on 04.08.2015 and that he was engaged in performing the funeral rites and other rituals. Thereafter, he fell ill and visited the Government Hospital, Thakurdwara, District Moradabad, where, after medical examination, the Medical Officer prescribed certain medical tests and advised complete bed rest



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with effect from 26.08.2015. As his medical condition worsened, he visited another Government Hospital at Dilari, District Moradabad, where, after examination, he was diagnosed with jaundice and advised complete bed rest for four weeks along with medication and precautions. As there was no improvement in his condition, he visited Pandit Deendayal Upadhyay Combined Government Hospital, District Moradabad, where he was again advised bed rest for another four weeks and, thereafter, on 24.11.2015, was advised bed rest for a further period of four weeks.

(iii) He stated that he sent an email to the concerned officer on 24.11.2015 informing about his ill health and undertook to produce all relevant medical evidence in support thereof. He further stated that the notices issued to him calling upon him to resume duty were not received at the given address, as he was residing at his uncle's house during the said period.

13. As the explanation submitted by the petitioner was found unsatisfactory, an Enquiry Officer was appointed to enquire into the allegations against him. Before the Enquiry Officer, the petitioner claims to have produced



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medical evidence as stated in Ground (I) of the affidavit. The list of medical documents produced before the Enquiry Officer is as follows:

Sl. No.	From	To	No. of days	Issued by
01	20.07.2015	09.08.2015	21 days	19 days Earned Leave along with admissible permissions.
02	10.08.2015	29.08.2015	20 days	Submitted Application on 05.08.2015 for extension of 20 days leave.
03	26.08.2015	22.09.2015	28 days	The Medical officer, Govt. Hospital (UPHC), Thakurdwara, Moradabad.
04	26.08.2015	--	--	Prescription slip for medicines vide OP No.50282 dated 26.08.2015
05	23.09.2015	19.10.2015	28 days	The Medical Officer, Govt Hospital, PHC, Dilari, Moradabad.
06	23.09.2015	--	--	Prescription slip for medicines vide OP No.22445 dated 23.09.2015
07	20.10.2015	--	--	Pathology report No. 106 dated 20.10.2015 issued by Pathologist, Govt. Hospital, PDDUC District Hospital, Moradabad



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08	20.10.2015	16.11.2025	28 days	Prescription slip for medicines dated 20.10.2015 vide <u>OP No. 328729</u> of Govt. Hospital, PDDUC District Hospital, Moradabad and remarks of the Medical officer that ' <u>Advise for rest for 04 weeks</u> '
09	17.11.2015	23.11.2015	07 days	Prescription slip for medicines dated 17.11.2015 vide <u>OP No. 356930</u> of Govt. Hospital, PDDUC District Hospital, Moradabad and remarks of the Medical officer that ' <u>Advise for rest for 01 week</u> '
10	24.11.2015	—	—	Pathology report No. 106 dated 24.11.2015 issued by Pathologist, Govt. Hospital, PDDUC District Hospital, Moradabad.
11	24.11.2015	21.12.2015	28 days	Prescription slip for medicines dated 24.11.2015 vide <u>OP No. 365745</u> of Govt. Hospital, PDDUC District Hospital, Moradabad and remarks of the Medical officer that ' <u>Advise for rest for 04 weeks</u> '



12	24.11.2015	—	—	Submitted application dated 24.11.2015 intimation about extension of Medical leave.
13	22.12.2015	—	—	Fit for duty certificate issued by Chief Superintendent, District Hospital, Moradabad also mentioned the <u>OP No. 328729, OP No. 356930 and OP No. 365745 in the fitness form dated 22.12.2015</u>
14	22.12.2015	24.12.2015	3 days	Travel time from my native to Cochin.
15	25.12.2015	—	—	Joined duty at BPCL (KR), Cochin.

14. The said medical documents were not disputed by the respondents in their counter affidavit. However, the Enquiry Officer observed in the enquiry report that, though the petitioner had undergone medical tests on five occasions and consulted different doctors and medical officers, he was not admitted as an inpatient even for a single day. This, according to the Enquiry Officer, created a doubt regarding the seriousness of the petitioner's medical condition, which, as claimed by him, prevented him from reporting to his duty station and from sending timely information regarding his whereabouts and health condition.



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15. The Enquiry Officer held that Charge No. 1 stood proved, as no significant medical tests were conducted that could substantiate the petitioner's claim, and no pathological tests were carried out, though he claimed to have been treated for jaundice. The explanation offered by the petitioner for not responding to the notices issued by the Unit Commandant calling upon him to resume duty was also found to be unsatisfactory.

16. Upon receipt of the enquiry report, the 5th respondent issued a second show-cause notice calling upon the petitioner to submit a further explanation. The petitioner submitted his further explanation on 16.02.2016, stating that his overstay of 137 days was solely on account of his ill health and was neither deliberate nor wilful. He further stated that, as he was residing at his uncle's house, he was not in a position to send emails to his superior officers seeking extension of leave and was also unable to respond to the notices calling upon him to resume duty.

17. The overstay was admittedly for a period of 137 days. Though the petitioner produced medical documents to substantiate that he was suffering from fever and jaundice, and the said documents were not disputed by the respondents, the Enquiry Officer observed that, in the absence of pathological tests and significant medical investigations, the documents raised doubt



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regarding the seriousness of the petitioner's medical condition as claimed by him. While the medical evidence produced by the petitioner may not fully justify the overstay without extension of leave, his claim of overstay on medical grounds cannot be completely disregarded, particularly when the genuineness of the documents is not in dispute.

18. The explanation offered by the petitioner that he was unable to send emails to his superior officers seeking extension of leave and could not respond to the notices calling upon him to resume duty was found to be unsatisfactory by the Enquiry Officer. Such findings are based on the evidence and records and cannot be said to be perverse or arbitrary.

19. Admittedly, the overstay was without obtaining extension of leave from the competent authority, and the petitioner has not produced substantial evidence except certain medical prescriptions advising bed rest on account of fever and jaundice. The petitioner could have informed his superior officers and sought extension of leave but failed to do so without sufficient cause. The period of overstay was 137 days. The learned counsel for the petitioner has produced the final order dated 15.04.2006 issued by the Office of the Senior Commandant, CISF Unit, Ministry of Home Affairs, which discloses that a Constable, namely K.M. Kabir, who had overstayed for a period of 175 days,



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was imposed the penalty of reduction of pay for a period of three years, without earning any increment during the period of reduction, and such reduction had the effect of postponement of his future increments.

20. In the present case, the overstay was for a period of 137 days, and the petitioner, as on the date of removal from service, had put in more than three years of service. As of today, he is about 38 years of age, and if the punishment of removal from service is upheld, the petitioner would be rendered unemployed, having crossed the age limit for securing alternative employment. Consequently, his family would be put to severe hardship, as he has no other means of livelihood. Therefore, the punishment of removal from service is held to be disproportionate to the gravity of the misconduct, and for the said reasons, the impugned order of removal from service is not sustainable.

21. Accordingly, the following order is passed:

(i) The writ petition is partly allowed. The impugned order, insofar as it relates to the imposition of punishment of removal from service, is hereby set aside. However, the findings recorded holding that the charges against the petitioner stand proved are confirmed.



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(ii) The 5th respondent is directed to pass an appropriate order imposing punishment proportionate to the gravity of the misconduct, and reinstate him into service with continuity of service but without back salary for the non employment period after affording sufficient opportunity to the petitioner.

(iii) The petitioner is at liberty to submit a reply to the 5th respondent on the issue of proportionality of punishment.

(iv) The 5th respondent shall complete the aforesaid exercise within a period of two months from the date of receipt of a copy of this order.

(v) There shall be no order as to costs.

15.12.2025

Index : Yes
Internet : Yes
Neutral Citation : Yes/No
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To

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HEMANT CHANDANGOUDAR, J.

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